

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5205-05
Bill No.: Truly Agreed To and Finally Passed CCS for SCS for HB 2226, HB 1824, HB 1832, and HB 1990
Subject: Boards, Commissions, Committees, Councils; Dentists; Employees-Employers; Funerals and Funeral Directors;
Type: Original
Date: June 16, 2010

Bill Summary: Modifies the laws regarding the regulation of certain professions and the regulation of hospitals.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Third Party Liability Fund	Unknown greater than \$367,100	Unknown greater than \$367,100	Unknown greater than \$367,100
Dental Board	\$0	\$61,710	\$1,851
Pharmacy	\$0	(\$11,250)	\$0
Total Estimated Net Effect on Other State Funds	Unknown greater than \$367,100	Unknown greater than \$417,560	Unknown greater than \$368,951

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 14 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Federal*	\$0	\$0	\$0
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

* Savings and costs to exceed \$632,900 annually and net to \$0.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Total Estimated Net Effect on FTE	0	0	0

☒ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of State Courts Administrator, Department of Economic Development, Department of Higher Education, Department of Mental Health, Department of Natural Resources, Department of Labor and Industrial Relations, Department of Revenue, Missouri Department of Transportation, Missouri Consolidated Health Care Plan, Joint Committee on Legislative Research - Oversight Division, Missouri Department of Conservation, Missouri Ethics Commission, Missouri House of Representatives, Office of Lieutenant Governor, Missouri State Employee Retirement System, Office of State Auditor, Missouri Senate, Office of State Treasurer, State Tax Commission, Boone County, St. Louis County, Linn State Technical College, Kansas City Metropolitan Community College, Missouri State University, University of Central Missouri, Parkway School District, County Employees' Retirement Fund, Missouri Local Government Employees Retirement System, The Firemen's Retirement System of St. Louis, Missouri Sheriff's Retirement System, and Public School and Education Employee Retirement Systems of Missouri** assume the proposal will have no fiscal impact on their organizations.

Officials from the **Office of the Governor (GOV)** state no added costs are anticipated for the GOV as a result of this bill. However, if additional duties are placed on the office related to appointments in other TAFP legislation, there may be the need for additional staff resources in future years.

Officials from the **Department of Public Safety - Missouri State Highway Patrol** defer to the Missouri Department of Transportation for response regarding the potential fiscal impact of this proposal on their organization.

Officials from the **Office of Administration (COA) - Division of Budget and Planning (BAP)** state there should be no added cost to the COA-BAB as a result of this bill. However, this bill contains one provision, authorization of expanded function dental assistants, which will increase total state revenue.

The Department of Insurance, Financial Institutions, and Professional Registration should provide an estimate of possible increased costs and revenues to the state as a result of authorizing permit fees for expanded function dental assistants.

Officials from the **COA - Administrative Hearing Commission** anticipate the legislation will not significantly alter its caseload. However, if similar bills also pass, there are more cases, or the cases are more complex, there could be a fiscal impact.

ASSUMPTION (continued)

Officials from the **Department of Elementary and Secondary Education (DESE)** state there is no anticipated state cost to the foundation formula associated with this proposal. To the extent fine revenues exceed 2004 - 2005 collections, any increase in this money distributed to school districts increases the deduction in the foundation formula the following year. Therefore, the affected districts will see an equal decrease in the amount of funding received through the formula the following year, unless the affected districts are hold-harmless (any increase in fine money distributed to the hold-harmless districts will simply be additional money). An increase in the deduction (all other factors remaining constant) reduces the cost to the state of funding the formula.

Oversight assumes any increase or decrease in fine or penalty revenues generated cannot be determined. Therefore, the fiscal note does not reflect any fine or penalty revenues for the local school districts.

Officials from the **Office of Secretary of State (SOS)** state the fiscal impact for this proposal is less than \$2,500. The SOS does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the SOS can sustain within its core budget. Therefore, the SOS reserves the right to request funding for the costs of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the Governor.

Officials from the **Department of Corrections (DOC)** state the DOC cannot predict the number of new commitments which may result from the creation of the offense(s) outlined in this proposal. An increase in commitments depends on utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost through supervision provided by the Board of Probation and Parole (FY 09 average of \$3.71 per offender, per day, or an annual cost of \$1,354 per offender). The DOC assumes the narrow scope of the crime will not encompass a large number of offenders and the low felony status enhances the possibility of plea-bargaining or imposition of a probation sentence. The probability also exists that offenders would be charged with a similar, but more serious offense, or that sentences may run concurrent to one another. Therefore, supervision by the DOC through probation would result in some additional costs, but it is assumed the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

ASSUMPTION (continued)

Officials from the **Department of Health and Senior Services (DOH)** state sections 344.010 and 344.020 will require the Board of Nursing Home Administrators (BNHA) to promulgate new rules pertaining to qualifications for prospective RCF Administrators, including new definitions. The rules will be promulgated and administration of testing for RCF licensure will be accomplished through existing staff.

The BNHA is currently implementing an automated system that will allow current and prospective administrators to apply for examinations, pay fees, and update information. In order to implement the changes resulting from passage of this bill, the BNHA will need to work with the Information Technology Services Division (ITSD) to modify the application. The ITSD will conduct an analysis assessing the necessary modifications and accompanying costs. The impact for this modification is unknown at this time.

Oversight assumes the DOH could absorb the additional ITSD modifications that may result from this proposal within existing resources. **Oversight** assumes any significant increase in the workload of the DOH would be reflected in future budget request.

Officials from the **Department of Social Services (DOS)** state state Section 208.215 requires health benefit plans to process MO HealthNet subrogation claims for a period of three years from the date of service, regardless of their timely filing requirements. This would significantly increase third party liability recoveries. The estimated increase in recoveries is unknown but greater than \$1,000,000.

Provisions of the proposal add advanced practice registered nurses to the list of approved health care providers for purposes of referring patients to physical therapists.

The ability of an advanced practice nurse to write a prescription for physical therapy has no impact on who is eligible for therapy or the medical necessity of the therapy. It does not change the number of MO HealthNet eligibles or services; therefore, these provisions have no fiscal impact to the MO HealthNet Division (MHD).

Section 335.075 requires that prior to hiring a registered nurse, licensed practical nurse, or advanced practice nurse, an employer shall verify that the applicant has a current valid license to practice nursing. Employers must have a system in place to verify the licensure of these practitioners coinciding with the license renewal.

Most physicians' offices and clinics already have verification and tracking systems. If they do not, they may see an increase in their administrative costs, but it is not anticipated to be significant.

ASSUMPTION (continued)

Most institutions, hospitals and nursing facilities have these types of verification and tracking systems in place and already meet these requirements. However, if these facilities did incur a cost, those costs would not be reflected in the Medicaid per diem rates until the cost report that captures the costs is used for a rate base. Currently, rates are based on 1995 cost reports and the MHD does not have any plans to rebase on a more current rate base.

The MHD bases other hospital reimbursement (i.e., add-on payments) for a given year on the fourth prior year cost report. Since the legislation would probably be effective in August, 2010, the costs would begin to be reflected in 2011 cost reports. The MHD would use 2011 cost reports to establish reimbursement for State Fiscal Year 2015. Therefore, there would not be a fiscal impact for facilities that would be passed on to the MHD for FY 11, FY 12, and FY 13, but starting in FY 15 there could be an impact, but the amount is unknown.

Officials from the **Department of Insurance, Financial Institutions, and Professional Registration (DIFP)** state the proposal adds one board member to the Missouri Board of Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects. With the addition of this member, the board will incur increased personal service and expense and equipment costs. The members of the board receive per diem an average of 51 days annually. Additionally, the board receives reimbursement of necessary expenses for an average of four (4) meetings per year. The cost estimates for the implementation of this legislation includes \$2,550 per diem for the additional board member and \$1,484 in mileage, hotel, and meal reimbursements. Total costs for FY 11 are estimated to be \$4,034; costs for FY 12 are estimated to be \$4,079; and costs of \$4,124 are estimated for FY 13.

Oversight assumes the Missouri Board of Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects fund has a sufficient balance to cover the increase in costs for the additional board member. However, if necessary, the Board may need to adjust licensing fees to help cover the additional expenses.

DIFP officials state the legislation will give the Missouri Dental Board the authority to issue permits to dental assistants and dental hygienists authorizing them to perform expanded function dental procedures. There are no mechanisms in place which enable the board to determine the number of dental assistants currently working in Missouri. The estimates provided are assumptions based on the number of dentists practicing in Missouri. Private entity fees are set at an amount to cover the total actual cost incurred by the office, which includes personal service, expense and equipment and transfers.

ASSUMPTION (continued)

There are currently 3,300 licensed dentists in Missouri. Assuming each dentist has two dental assistants/dental hygienist, there are 6,600 potential expanded function dental assistants/hygienists. Assuming a licensure fee of \$10, with renewal every five (5) years, the anticipated revenue is \$66,000 ($6,600 \times \10) every five years. A three percent (3%) annual growth rate is assumed.

Printing and postage expenses for the first year include printing notification, applications, letterhead and envelopes, as well as costs associated with mailings associated with initial registration. Subsequent year's printing and postage is based on a board of similar size. The DIFP estimates FY 12 printing and postage costs of \$4,290 and FY 13 costs of \$129 ($6,600 \times 3\% = 198 \times \0.65).

During the first year of implementation, costs are calculated for the design, program and implementation of the licensure program for new boards. The DIFP estimates \$540 in licensure system costs.

The DIFP also states the Board of Pharmacy estimates that approximately 25 of the 1,168 wholesale drug distributors in this state are out-of-state wholesale drug distributors who will not have to renew their license as they only deal with medical devices and not drug distribution. Wholesale drug distributors renew in October of every odd numbered year. The DIFP estimates an \$11,250 reduction in wholesale drug distributor renewal fees biennially, beginning in FY 12 ($\$450 \text{ renewal fee} \times 25 \text{ drug distributors}$).

Oversight assumes the Dental Board can absorb the design and implementation costs to set up the new licensure program in FY 11.

Officials from the **Office of Attorney General (AGO)** assume that costs of any litigation related to endowed care trusts could be absorbed with existing resources.

The AGO assumes that it would need one (1) FTE Assistant Attorney General I to adequately handle licensing and disciplinary proceedings pursuant to the proposal. The AGO assumes FY 11 costs of \$73,385; FY 12 costs of \$89,050; and FY 13 costs of \$91,721.

Oversight assumes the AGO will be reimbursed all expenditures associated with licensing and disciplinary proceedings by the Missouri Dental Board through the Division of Professional Registration within the DIFP.

Officials from the **Department of Agriculture** did not respond to our request for a statement of fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
THIRD PARTY LIABILITY FUND			
<u>Savings - Department of Social Services</u>			
Program Savings (\$208.215)	<u>Unknown</u> <u>greater than</u> <u>\$367,100</u>	<u>Unknown</u> <u>greater than</u> <u>\$367,100</u>	<u>Unknown</u> <u>greater than</u> <u>\$367,100</u>
ESTIMATED NET EFFECT ON THIRD PARTY LIABILITY FUND	<u><u>Unknown</u></u> <u><u>greater than</u></u> <u><u>\$367,100</u></u>	<u><u>Unknown</u></u> <u><u>greater than</u></u> <u><u>\$367,100</u></u>	<u><u>Unknown</u></u> <u><u>greater than</u></u> <u><u>\$367,100</u></u>
DENTAL BOARD FUND			
<u>Income - DIFP</u>			
Dental assistant/hygienist licensing fees	\$0	\$66,000	\$1,980
<u>Costs - DIFP</u>			
Equipment and expenses	<u>\$0</u>	<u>(\$4,290)</u>	<u>(\$129)</u>
ESTIMATED NET EFFECT ON DENTAL BOARD FUND	<u><u>\$0</u></u>	<u><u>\$61,710</u></u>	<u><u>\$1,851</u></u>
PHARMACY FUND			
<u>Loss - DIFP</u>			
Reduction in renewal fees	<u>\$0</u>	<u>(\$11,250)</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON PHARMACY FUND	<u><u>\$0</u></u>	<u><u>(\$11,250)</u></u>	<u><u>\$0</u></u>

<u>FISCAL IMPACT - State Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
FEDERAL FUNDS			
<u>Savings - Department of Social Services</u>			
Program Savings (§208.215)	Unknown but Greater than \$632,900	Unknown but Greater than \$632,900	Unknown but Greater than \$632,900
<u>Costs - Department of Social Services</u>			
Return Federal Assistance (§208.215)	<u>(Unknown but Greater than \$632,900)</u>	<u>(Unknown but Greater than \$632,900)</u>	<u>(Unknown but Greater than \$632,900)</u>
ESTIMATED NET EFFECT ON FEDERAL FUNDS	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

The proposal may impact small business dental offices that pay licensing fees for dental assistants and hygienists.

If the Missouri Board of Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects raises licensing fees to cover the cost of the additional board member, small businesses may have to pay increased licensing fees.

FISCAL DESCRIPTION

This bill changes the laws regarding the Oversight Division of the Joint Committee on Legislative Research; MO HealthNet reimbursements; certain professions regulated by the Department of Insurance, Financial Institutions and Professional Registration; and hospital premises licenses.

FISCAL DESCRIPTION (continued)

OVERSIGHT DIVISION OF THE JOINT COMMITTEE ON LEGISLATIVE RESEARCH
(Section 23.156, RSMo)

Each employee of the Oversight Division of the Joint Committee on Legislative Research before entering upon his or her duties is required to take and file with the Chief Clerk of the House of Representatives and the Secretary of the Senate an oath to support the Missouri Constitution, to faithfully demean himself or herself in office, not to disclose specified information to unauthorized persons, and not to accept and pay for the discharge of his or her duties other than that fixed and accorded to the employee by law. Anyone violating this provision will be guilty of a class A misdemeanor.

PAYMENTS FROM THIRD-PARTY PAYERS TO THE MO HEALTHNET DIVISION
(Section 208.215)

The bill changes the laws regarding the authority of the MO HealthNet Division within the Department of Social Services to collect payments from third-party payers. Health benefit plans, third-party administrators, administrative service organizations, and pharmacy benefits managers are required to process and pay properly submitted medical assistance or MO HealthNet subrogation claims using standard electronic transactions or paper claim forms for a period of three years from the date of services that were provided by an entity. The entity cannot be required to reimburse for items or services not covered under MO HealthNet; cannot deny a claim based solely on the date of submission, the type or format of the claim form, failure to present proper documentation of coverage at the point of sale, or failure to obtain prior authorization; cannot be required to reimburse for items or services previously submitted to the third-party payer by the provider or the participant and the claim was properly denied for procedural reasons; and cannot be required to reimburse for items or services which are not covered under the plan offered by the entity against which a claim for subrogation has been filed. An entity must reimburse for items or services to the same extent that the entity would have been liable if it had been properly billed at the point of sale, and the amount due is limited to what the entity would have paid if it had been properly billed at the point of sale. Health benefit plans, third party administrators, administrative service organizations, and pharmacy benefits managers must also pay a subrogation claim if the state enforces its right to a claim within six years of the submission of the claim.

The computerized records of the division, if certified by the division director or his designee, will be prima facie evidence of proof of moneys expended and the amount of the debt due the state.

FISCAL DESCRIPTION (continued)

EXPANDED-FUNCTIONS PERMITS FOR CERTAIN DENTAL ASSISTANTS AND DENTAL HYGIENISTS (Sections 332.011 and 332.098)

All dental assistants and dental hygienists must obtain a permit from the Missouri Dental Board within the Department of Insurance, Financial Institutions and Professional Registration in order to perform expanded-functions duties. "Expanded-functions duties" are defined as reversible acts that would be considered the practice of dentistry under Section 332.071 that the board specifies by rule may be delegated to a dental assistant or dental hygienist who possesses an expanded-functions permit.

Nothing in the bill will be construed as making it unlawful for a licensed dentist to perform any dental services that would be considered expanded-functions duties or for dental assistants, certified dental assistants, or expanded-functions dental assistants to polish teeth. The board is prohibited from establishing any rule allowing the delegation of acts to a dental assistant which would conflict with the practice of dental hygiene in Section 332.091. Expanded-functions permits must be renewed every five years, and the board is authorized to establish rules regarding the issuance and renewal of the permits.

LICENSURE OF WHOLESALE DRUG DISTRIBUTORS (Sections 338.333, 338.355, and 338.337)

A wholesale drug distributor who distributes drug-related devices in this state is not required to obtain a license from the State Board of Pharmacy within the Department of Insurance, Financial Institutions and Professional Registration for out-of-state distribution sites owned by the distributor if: (1) The distributor has one or more distribution sites in Missouri and these sites are licensed as a distributor; (2) The distributor's out-of-state distribution sites are in compliance with their respective state's licensing laws; and (3) The distributor's out-of-state distribution sites deliver the devices only to the licensed distributor's in-state distribution site.

A Missouri wholesale drug distributor receiving shipments of devices from a licensure-exempt out-of-state facility will be responsible for all shipments received.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Attorney General

Office of Administration -

 Division of Budget and Planning

 Administrative Hearing Commission

Office of State Courts Administrator

Department of Economic Development

Department of Elementary and Secondary Education

Department of Higher Education

Department of Insurance, Financial Institutions, and Professional Registration

Department of Mental Health

Department of Natural Resources

Department of Corrections

Department of Health and Senior Services

Department of Labor and Industrial Relations

Department of Revenue

Department of Social Services

Missouri Department of Transportation

Department of Public Safety -

 Division of Alcohol and Tobacco Control

 Division of Fire Safety

 Missouri State Water Patrol

 State Emergency Management Agency

 Missouri Veterans Commission

Office of the Governor

Missouri Consolidated Health Care Plan

Joint Committee on Administrative Rules

Missouri Lottery Commission

Missouri Department of Conservation

Missouri Ethics Commission

Office of Lieutenant Governor

Missouri State Employee Retirement System

Joint Committee on Legislative Research -

 Oversight Division

Office of State Auditor

Missouri Senate

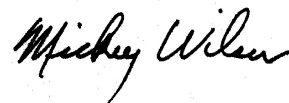
Office of Secretary of State

Office of State Public Defender

SOURCES OF INFORMATION (continued)

Office of State Treasurer
Missouri Tax Commission
St. Louis County
Jefferson City Police Department
Joint Committee on Public Employee Retirement
Missouri Sheriffs' Retirement System
MoDOT & Patrol Employees' Retirement System
Police Retirement System of St. Louis
County Employees' Retirement Fund
Missouri Local Government Employees Retirement System
Prosecutors and Circuit Attorneys Retirement System
Public School and Education Employee Retirement Systems
Kansas City Police Employees' Retirement Systems
Linn State Technical College
Metropolitan Community College
University of Central Missouri
Missouri State University
Northwest Missouri State University
Missouri Western State University
University of Missouri
Francis Howell School District
Parkway School District
City of Centralia
Little Blue Valley Sewer District

NOT RESPONDING: Department of Agriculture and Various Colleges/Universities, Schools, Cities, Counties, and Hospitals

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA

L.R. No. 5205-05

Bill No. Truly Agreed To and Finally Passed CCS for SCS for HB 2226, HB 1824, HB 1832, and HB 1990

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